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EXAMINER	
VAN HANDEL, MICHAEL P	
ART UNIT	PAPER NUMBER
2424	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/026,835	BEST ET AL.	
	Examiner	Art Unit	
	MICHAEL VAN HANDEL	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 February 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *48-53,58-63 and 68-73* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *48-53, 58-63, 68-73* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This action is responsive to an Amendment filed 2/19/2010. Claims **48-53**, **58-63**, **68-73** are pending. Claims **48-53**, **58-63**, **68-73** are amended. Claims **1-47**, **54-57**, **64-67**, **74-77** are canceled. The examiner hereby withdraws the objection to claim **68** in light of the amendment. The examiner further hereby withdraws the rejection of claims **48-53**, **58-63**, **68-71**, **73** under 35 USC 112, first paragraph, in light of the amendment.

Response to Arguments

2. Applicant's arguments regarding claims **48**, **58**, and **68**, filed 2/19/2010, have been considered, but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim **72** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claim **72**, the examiner fails to find support in Applicant's specification for querying to determine which of the conflicting actions are to be taken and receiving a response to the query denying access to the computer when an aggregate amount of access is exceeded. Page 6, paragraph 43 of the published version of Applicant's specification (US 2005/0034147) discusses prompting a user with a query when there are conflicting actions, but does not state that the user is queried whether to deny access to the computer when an aggregate amount of access is exceeded. Page 7, paragraph 47 discusses denying access when an aggregate amount of access is exceeded, but it does not state that this is done in response to a query to resolve a conflict. As such, the examiner fails to find support in Applicant's specification for the language of claim 72.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims **48**, **52**, **53**, **58**, **61-63**, **68** are rejected under 35 U.S.C. 102(e) as being anticipated by Gutta et al. (Gutta et al. I hereinafter)(US 2002/0194586)(of record).

Referring to claim **48**, Gutta et al. I discloses a method, comprising:

- detecting a user in the vicinity of a television (p. 2, paragraph 17; p. 3, paragraph 34; & Figs. 1, 2);
- sending a presence indicator signal from a presence detector to a computer (p. 2, paragraphs 19, 20 & p. 3, paragraph 34);
- determining, by the computer, conflicting actions to be taken based on the presence indicator signal and a source of the presence indicator signal (different user profiles are associated with each user in the vicinity and may contain conflicting recommendations)(p. 2, paragraph 21 & p. 3, paragraphs 30, 31);
- retrieving a conflict resolution rule to determine which of the conflicting actions predominates (preferences of the different users may be weighted differently or weighted differently based on time of day)(p. 3, paragraphs 29-32); and
- sending a predominate action to the television (p. 3, paragraphs 27, 29-32).

Referring to claim **52**, Gutta et al. I discloses the method according to claim 48, further comprising selecting a predominate user associated with at least one of the conflicting actions (p. 3, paragraphs 29-32).

Referring to claim **53**, Gutta et al. I discloses the method according to claim 48, further comprising powering the television (p. 3, paragraph 33).

Referring to claim **58**, Gutta et al. I discloses a system, comprising:

- a processor executing instructions stored in memory (Fig. 1) that cause the processor to:

- detect multiple users in the vicinity of a television (p. 2, paragraph 17; p. 3, paragraph 34; & Figs. 1, 2);
- send multiple presence indicator signals from a presence detector to a computer, with each presence indicator signal identifying a user's identity (p. 2, paragraphs 19, 20 & p. 3, paragraph 34);
- determine conflicting actions to be taken based on each user's identity and on a source of each presence indicator signal (different user profiles are associated with each user in the vicinity and may contain conflicting recommendations)(p. 2, paragraph 21 & p. 3, paragraphs 30, 31);
- retrieve a conflict resolution rule that specifies which user's identity predominates over other users' identities (preferences of the different users may be weighted differently or weighted differently based on time of day)(p. 3, paragraphs 29-32);
- select a predominate action associated with the predominate user's identity (p. 3, paragraphs 27, 29-32); and
- send the predominate action to the television (p. 3, paragraphs 27, 29-32).

Referring to claim **61**, Gutta et al. I discloses the system according to claim 58, wherein the instructions further cause the processor to query to determine which of the conflicting actions are to be taken (p. 3, paragraphs 27, 29-32).

Referring to claim **62**, Gutta et al. I discloses the system according to claim 61, wherein the instructions further cause the processor to receive a response to the query (p. 3, paragraphs 27, 29-32).

Referring to claim **63**, Gutta et al. I discloses the system according to claim 58, wherein the instructions further cause the processor to set a timer (p. 3, paragraph 33).

Referring to claim **68**, Gutta et al. I discloses a computer readable medium storing processor executable instructions (Fig. 1) for performing a method, the method comprising:

- detecting multiple users in the vicinity of a television (p. 2, paragraph 17; p. 3, paragraph 34; & Figs. 1, 2);
- sending multiple presence indicator signals from a presence detector to a computer, with each presence indicator signal identifying a user's identity (p. 2, paragraphs 19, 20 & p. 3, paragraph 34);
- determining conflicting actions to be taken based on each user's identity and on a source of each presence indicator signal (different user profiles are associated with each user in the vicinity and may contain conflicting recommendations)(p. 2, paragraph 21 & p. 3, paragraphs 30, 31);
- retrieving a conflict resolution rule that specifies which user's identity predominates over other users' identities (preferences of the different users may be weighted differently or weighted differently based on time of day)(p. 3, paragraphs 29-32);
- selecting a predominate action associated with the predominate user's identity (p. 3, paragraphs 27, 29-32); and

- sending the predominate action to the television (p. 3, paragraphs 27, 29-32).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims **49-51**, **59**, **60**, **69**, **70-72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. I in view of Gutta et al. (Gutta et al. II hereinafter)(US 2002/0144259)(of record).

Referring to claims **49**, **50**, **59**, **60**, **69**, and **70**, Gutta et al. I discloses the method/system/computer readable medium according to claims 48, 58, and 68. Gutta et al. I further discloses displaying television program recommendations based on user profiles (p. 3, paragraphs 27, 29-30). Gutta et al. I does not specifically disclose changing a channel associated with the television or changing a volume associated with the television. Gutta et al. II discloses an apparatus for monitoring for users in the vicinity of a media player and automatically controlling the media player in response to predefined events (p. 1, paragraph 5). Like in Gutta et al. I, Gutta et al. II discloses storing a number of user profiles containing different user preferences (p. 2, paragraph 19 & Fig. 2). These preferences can include muting, adjusting the volume, and changing the program channel (p. 1, paragraph 15). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the preferences in the user profiles of Gutta et al. I to include muting, adjusting the volume, or changing the

program channel, such as that taught by Gutta et al. II in order to allow a user to conveniently adjust one or more settings in a desired manner (Gutta et al. II p. 1, paragraph 3).

Referring to claim **71**, the combination of Gutta et al. I and Gutta et al. II teaches the computer readable medium according to claim 69, further comprising instructions for querying to determine which of the conflicting actions are to be taken (p. 3, paragraphs 27, 29-32).

9. Claim **51** is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta I et al. in view of Gutta II et al., and further in view of Robbins.

Referring to claim **51**, Gutta et al. I discloses the method according to claim 48. Gutta et al. I further discloses displaying television program recommendations based on user profiles (p. 3, paragraphs 27, 29-30). Gutta et al. I does not specifically disclose retrieving weather and traffic information. Gutta et al. II discloses an apparatus for monitoring for users in the vicinity of a media player and automatically controlling the media player in response to predefined events (p. 1, paragraph 5). Like in Gutta et al. I, Gutta et al. II discloses storing a number of user profiles containing different user preferences (p. 2, paragraph 19 & Fig. 2). These preferences can include changing the program channel (p. 1, paragraph 15). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the preferences in the user profiles of Gutta et al. I to include changing the program channel, such as that taught by Gutta et al. II in order to allow a user to conveniently adjust one or more settings in a desired manner (Gutta et al. II p. 1, paragraph 3).

The combination of Gutta et al. I and Gutta et al. II does not specifically teach tuning to weather and traffic information. Robbins discloses an automatic tuning system for automatically tuning to a predetermined program (col. 3, l. 61-65). A user programs the television receiver to automatically tune to the channel at the appropriate time (col. 5, l. 42-50). Robbins further discloses that the channel can be tuned when displaying traffic and weather portions of a newscast (col. 5, l. 50-61). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Gutta et al. I and Gutta et al. II to include automatically tuning to a channel displaying traffic and weather portions of a newscast, such as that taught by Robbins in order to allow easy user programming for automatically tuning to a broadcast of a specific program (Robbins col. 3, l. 52-55).

10. Claim **72** is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. I in view of Gutta et al. II, and further in view of Stas et al. (of record).

Referring to claim **72**, the combination of Gutta et al. I and Gutta et al. II teaches the computer readable medium according to claim 71, further comprising instructions for receiving a response to a query (Gutta et al. I p. 3, paragraph 27). The combination of Gutta et al. I and Gutta et al. II does not specifically teach receiving a response denying access to the computer when an aggregate amount of access is exceeded. Stas et al. discloses a system in which a total time limit on the number of viewing hours per day, week, or month can be set (col. 8, l. 18-27). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Gutta et al. I and Gutta et al. II to include setting a time limit on the number of viewing

hours, such as that taught by Stas et al. in order to allow a parent a comprehensive and user-friendly control for permitted viewing times for a predetermined future time period (Stas et al. col. 1, l. 65-67 & col. 2, l. 1-2).

11. Claim **73** is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. I.

Referring to claim **73**, Gutta et al. I discloses the computer readable medium according to claim 68, further comprising instructions for powering the television (p. 3, paragraph 33). Gutta et al. I further discloses that the entertainment system is used for audio-visual entertainment as well as audio entertainment (p. 1, paragraph 16). Gutta et al. I does not specifically disclose that the television has stereo audio; however, the examiner takes Official Notice that it is notoriously well-known within the prior art to include stereo audio with a television. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the audio output of the television of Gutta et al. I to include stereo audio, such as that taught by the prior art in order to provide the user with a better and more realistic sounding television experience.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher Kelley/
Supervisory Patent Examiner, Art Unit 2424

MV